

R EMARKS

Claims 1, 3, 4, 6-9, 11 and 13-20 are pending in the application, with claims 1, 8, 16 and 18 being independent.

Claims 1 and 3-4 and 18-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barber et al. (6014477, hereinafter Barber) in view of Tomonobu et al. (JP 2002-141927, hereinafter Tomonobu).

Claims 1 and 3-14 and 18-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tomonobu.

Claims 8-9, 11 and 13-17 are allowed.

Claims 6-7 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent

form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. §103

Claims 1 and 3-4 and 18-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barber in view of Tomonobu. Claims 1 and 3-14 and 18-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tomonobu. The rejections are traversed.

Barber and Tomonobu singly or in any permissible combination fail to teach or suggest all elements of Applicant's claim 1.

Applicant sincerely appreciates the courtesies extended by the Examiner during the telephonic interview held on Wednesday, October 14, 2009. As discussed in the interview, element 11a3 in the various figures of Tomonobu is an active element; namely, an electro-optical wavelength shifter. As such, both upstream and downstream paths in this reference are active. In contrast, claim 1 recites in part: "a passive all-optical downstream path" and "an active optical upstream path" (emphasis added). Accordingly, Tomonobu fails to teach or fairly suggests "a passive all-optical downstream path" and "an active optical upstream path" as recited in claim 1. Barber does not bridge the substantial gap between Applicants' claim 1 and Tomonobu. Accordingly, Applicant's claim 1 is allowable under 35 U.S.C. §103(a) over Tomonobu singly or in combination with Barber.

Further, claim 1 is amended to clarify a salient feature of the claimed embodiment.

For the reasons set forth above, Applicant submits that independent base claims 1 and 18 are allowable over the cited references.

As such, Since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable under 35 U.S.C. 103(a) over Tomonobu singly or in combination with Barber. The Examiner is respectfully requested to withdraw the rejections.

Allowable Subject Matter

Claims 8-9, 11 and 13-17 are allowed. Applicant thanks the Examiner for the allowance of claims 8-9, 11 and 13-17.

Claims 6-7 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant thanks the Examiner for indicating allowability with respect to claims 6-7 and 20. For the reasons set forth above, Applicant submits that independent base claims 1 and 18 are allowable over the cited references. Thus, dependent claims 6-7 and 20 are also allowable. The Examiner is respectfully requested to withdraw the objections.

Conclusion

It is respectfully submitted that all outstanding rejections have been overcome and this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 842-8110 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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